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**PATENT APPLICATION**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Herrell

Art Unit: 2171

Application No.: 09/933,666

Examiner: Nguyen, M. P.

Filed: August 22, 2001

Attorney Dkt. No.: 11011-0002

For: Method for Evaluating Employees and Aggregating their Respective Skills and Experience in a Searchable Database for Sharing Knowledge Resources

**REQUEST FOR RECONSIDERATION**

**RECEIVED**

AUG 10 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Technology Center 2100

Sir:

In response to the Office Action dated July 12, 2004, Applicant respectfully request reconsideration of the rejection.

In review, the Examiner finally rejects claims 1-18 under 35 U.S.C. § 103(a) based on two US published patent applications. The Examiner relies on Publication Number 2002/0032636 to Shields et al. (Shields) and newly cited Publication Number 2002/0095305 to Gakidis et al. (Gakidis). In finally rejecting the claims, the Examiner alleges that Shields et al. is deficient in trading shares of all employees in the market, wherein at least one employee can be evaluated on the basis of the traded shares of the one employee. To make up for this deficiency, the Examiner cites Gakidis and alleges that this reference teaches trading shares of all employees in the market and evaluating the performance of the employee based on the traded shares. The

Examiner then concludes that it would be obvious to modify Shields given the teachings of Gakidis, thus arriving at the claimed invention.

Applicant contends that the rejection is in error since Gakidis is not effective prior art against the instant invention. In review, Gakidis has an effective filing date of August 21, 2000. This filing date is just nine days before Applicant's effective filing date of August 30, 2000.

In response to the Examiner's reliance on Gakidis, submitted herewith is a Declaration under 37 CFR §1.131. In this Declaration, evidence is submitted in conjunction with the inventor's statements that the invention was conceived prior to the effective filing date of the Gakidis published patent application and diligence was exercised from just before the effective date of the Gakidis publication to the constructive reduction to practice of the invention, i.e., the instant application's filing date. Moreover, the evidence submitted with the Declaration supports the invention as now claimed, and this submission effectively removes Gakidis as prior art against the instant application. As explained in the attached Declaration, the invention as claimed is described in the business plan authored by the inventor and made prior to August 21, 2000.

With the submission of the attached Declaration, the Examiner cannot rely on Gakidis to support the rejection under 35 U.S.C. § 103(a); it is no longer effective prior art under 35 U.S.C. § 103(a). Therefore, the Examiner is left with Shields et al. as the only reference to apply against claims 1-18. Since the Examiner has already admitted that Shields does not teach or suggest the invention, the Examiner has no option but to allow claims 1-18 as being patentably distinct from Shields et al.

Even though this Request for Reconsideration is submitted after final, there is no amendments to the claims that require further searching or consideration of the invention.

Consequently, this Request for Reconsideration and the attached Declaration should be entered and considered.

Accordingly, the Examiner is respectfully requested to examine this application in light of this Request for Reconsideration, and pass claims 1-18 onto issuance.

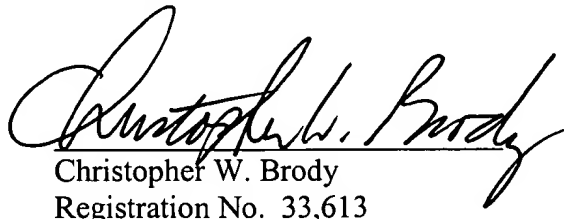
If the Examiner believes that an interview with Applicant's attorney would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number listed below.

The above constitutes a complete response to all issues raised in the Office Action of July 12, 2004.

Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Again, reconsideration and allowance of this application is respectfully solicited.

Respectfully submitted,  
CLARK & BRODY



Christopher W. Brody  
Registration No. 33,613

**Customer No. 22902**  
1750 K Street NW, Suite 600  
Washington DC 20006  
Telephone: 202-835-1111  
Facsimile: 202-835-1755  
Docket No.: 11011-0002  
Date: August 6, 2004